

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR.,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, *et al.*,

Defendants.

CASE NO. C22-00502-LK

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge J. Richard Creatura, Dkt. No. 3, and the objections thereto filed by *pro se* Plaintiff John Robert Demos, Jr., Dkt. No. 4. Demos is subject to a pre-filing bar order in this district. Dkt. No. 3 at 1.

Defendants have not been served or appeared. Having reviewed the Report and Recommendation, Demos' objections, and the balance of the record, the Court ADOPTS the Report and Recommendation as set forth below.

I. DISCUSSION

The background facts and procedural history are set forth in the Report and Recommendation and are adopted here. Dkt. No. 3. Demos, who is incarcerated at the Washington State Penitentiary, seeks to file a criminal complaint against Defendants. Dkt. No. 1-1 at 3. Judge Creatura recommended dismissal of this action because the Court will not accept for filing a proposed complaint from Demos unless it ““is accompanied by an affidavit that the claims have not been presented in any other action in any court and that [plaintiff] can and will produce evidence to support his claims,”” Dkt. No. 3 at 2 (quoting *In re John Robert Demos*, MC91-269-CRD (W.D. Wash. Jan. 16, 1992) (the “1992 Bar Order”)), but Demos did not file the affidavit that the 1992 Bar Order requires. The Court determines *de novo* the parts of the Report and Recommendation to which Demos has objected. Fed. R. Civ. P. 72(b)(3).

Demos’ objections allege that the Report and Recommendation erred but does not dispute that he did not file the required affidavit. Dkt. No. 4. The body of Demos’ complaint includes the words “Affidavit of Complaining Witness,” but the complaint is not an affidavit, is not signed under penalty of perjury, and does not state that the claims have not been presented in any other action in any court and that Demos can and will produce evidence to support his claims. Dkt. No. 1-1; 28 U.S.C. § 1746. Therefore, and in light of the record, the Court adopts the findings and conclusions from the Report and Recommendation that this action is not properly before the Court because Demos has not filed the affidavit required by the 1992 Bar Order. Dkt. No. 3 at 2.

II. CONCLUSION

For the foregoing reasons, it is hereby ORDERED that:

- (1) the Court ADOPTS the Report and Recommendation;
- (2) This action is DISMISSED without prejudice.

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
2 to any party appearing pro se at said party's last known address.

3 Dated this 13th day of July, 2022.

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Lauren King
6 United States District Judge
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